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JUNE 2008

Memorandum to Fire Districts and Regional Fire Authorities

By Attorneys Brian Snure and Joseph F. Quinn

The following memorandum, dated May 26, provides an overview of the appropriate method for managing and reporting volunteer compensation (expense reimbursements) for fire protection districts and regional fire authorities collectively referred to as "fire departments."

Payments to volunteer firefighters must be analyzed under two separate and somewhat contradictory legal frameworks: (1) income tax and other laws interpreted by the IRS, which are different from (2) FLSA and other federal or state laws.

A department cannot pay a volunteer an hourly wage.
The payment must be based on a "unit of voluntary service" such as a drill, response, etc., and should not be based on the time spent in performing the service.

Issue 1: What are the rules for providing compensation to volunteers without turning the volunteers into employees for minimum wage and overtime purposes? This issue requires consideration of the application of the minimum wage and overtime requirements imposed by the United States Department of Labor under the Fair Labor Standards Act "FLSA" and the Washington State Department of Labor and Industries of the Washington State Minimum Wage Act "MWA". This issue is addressed in part 1 of this memorandum.

Issue 2: What requirements must a fire department comply with in reporting the compensation received by a volunteer, pursuant to various federal and state statutes, rules and regulations? This issue requires a consideration of the rules of the Internal Revenue Service, Social Security Administration and various state taxing departments such as Labor and Industries and the Employment Security Department. This issue is addressed in part 2 of this Memorandum.

PART I - FLSA/MWA VOLUNTEER EXEMPTION

The Fair Labor Standards Act excludes **bona fide** volunteers from coverage of the Act. The MWA also recognizes a volunteer exemption and will generally follow the guidance created by the FLSA.

Creation of Volunteer Status. Sections 553.101 and 553.104 of the regulations define the term volunteer. The key elements in a volunteer rela-

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NAEFO Convention Set for September

The Fifth Annual Convention of the National Association of Elected Fire Officials will be held September 15-16, 2008 at the Golden Nugget in Las Vegas.

Formed in 2001, NAEFO is a non-profit organization made up of state associations of elected fire officials. Its primary purpose is to represent and inform elected officials of national issues and provide assistance to state associations.

Convention information will be mailed in the coming weeks. If you are interested in learning more about NAEFO, please visit www.naefo.org.

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A Message from the President by Joe Dawson



) y the time issue hits the press we will have completed our Saturday Seminar Series with

meeting in Lake Chelan. Hopefully many of us will have had the opportunity to visit with one another as well as gain meaningful tools to assist us in our duties as fire commissioners.

This issue's president's article will simply be a recap of the WFCA Board of Directors' meeting that was held in Spokane on April 19. Highlights of that meeting include the following items:

• The Board was provided a written document from the State Fire Marshal's Office outlining the proposal to decentralize delivery of basic firefighter training. There are many unanswered questions regarding this proposal and State Fire Marshal Mike Matlick will be present at

- our next Board meeting to address any of our concerns;
- Bill Gates of South King Fire and Rescue, the WFCA Vice President, was appointed to the vacancy on the Health Care Committee;

...of tremendous importance is a change in the WAC to protect workers from heatrelated illness when working outdoors in hot weather....

- A motion was passed to support the Fire Chiefs' Association's position paper on residential fire sprinklers; and,
- The final draft of the WFCA Strategic Plan was approved.

The next WFCA Board meeting will be held on Friday, July 11, 12:00 p.m., at the WFCA office in Olympia.

One other item of immediate and tremendous importance to the fire service is a change in the WAC proposed by L&I that addresses a workplace rule to protect workers from heat-related illness when working outdoors in hot weather.

The proposed change would indicate a 45-minute rest period for firefighters following every 15 minutes of work whenever the temperature was above 62 degrees.

The WFCA, in conjunction with the Washington Fire Chiefs, have submitted written comments outlining our opposition to this proposed workplace rule. We will keep you posted on the outcome of this action in a future issue of Fireline and the website when the outcome is finalized.

Until the next issue, I wish you all good luck and good fortune as you represent the electorate in each of your districts.

WFCA Board Biography

In our continuing series of WFCA Board biographies, this month we feature Region 2 Director Emilio Buttice.



Native Walla Wallan. Emilio Buttice lives a mile from the residence where he was born. His parents immigrated from Italy, and he helped raise our famous

Emilio Buttice

state vegetable, the Walla Walla Sweet Onion, on their farm. During high school summers Emilio also worked wheat harvest, being very adept driving the wheat combines of that time. He graduated from Walla Walla High School in 1949.

"Millie" began his service on the WFCA Board when he was appointed Region 2 Director in March of 1992; at the annual conference later that year, he was elected Region 2 Director. He has served on numerous WFCA committees.

Millie was a professional firefighter for the City of Walla Walla from June 1955 through June 1986. He attended numerous classes with certifications in many areas.

In 1988, Millie joined Walla Walla 4, and in November 1989, he was elected commissioner for the district: he was reelected to his fourth term last November.

Millie's goal in becoming a fire commissioner was to implement needed policies and procedures, a structured training program, to replace existing fire trucks and procure additional ones and replace the district's "main" fire station.

At the end of this year, the bond to replace the station will be paid off, with the district being out of debt for all equip-

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ON THE WEB

The WFCA office regularly receives notice of various fire service training and educational programs. Be sure to visit www.wfca.wa. (select often gov "Education and Training" tab, and "Other Programs" from the drop-down menu) as items are added frequently.

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60th Annual Conference

The Washington Fire Commissioners Association's 60th Annual Conference will be held at the Doubletree Hotel in SeaTac beginning Thursday, October 23, 2008. Conference will conclude on Saturday afternoon, October 25 at approximately 12:00 p.m. The Education Committee will meet soon to formalize its proposed class schedule, which will be presented to the Board on July 11 for final approval. If you have input regarding conference classes, please contact the Education Committee through the WFCA office as soon as possible. The following is preliminary information concerning conference—look for more to follow later this summer.

CONFERENCE KICKOFF 2008

The conference will kick off at 8 a.m. on Thursday with a breakfast hosted by WFCA Associate Members Emergency Services Insurance Program (ESIP) and Rice Fergus Miller Architects. Be sure to attend! Opening ceremonies, which include the memorial service and keynote address, will commence after the breakfast (10 a.m.).

EDUCATIONAL PROGRAMS

Conference registration forms will be mailed to all member fire commissioners, secretaries and chiefs in mid-August, following Board approval of the Education Committee's proposed workshop schedule. Registration forms will outline class topics and specific timelines for seminars, business sessions, meals and other conference functions. A separate registration will be mailed for the Snure Seminar which will be held the evening of Wednesday, October 22.

MANAGEMENT EXCELLENCE AWARDS

The Management Excellence Award questionnaires were mailed to districts last month. Be sure to complete and return the questionnaire so that your district can be eligible to win an award at conference. This is a great opportunity to highlight your district's innovative and progressive programs and services. Deadline for entries is July 1. Also, be sure to complete the survey requesting your input on the future of this program; contact the WFCA office if you need a copy of the survey.

GUEST ROOM RESERVATIONS

For room reservations, call the Doubletree toll-free reservations number at 1.800.445.8667 (HILTONS)—the room rate is \$115. When making reservations, be sure to mention you are with the WFCA; reservations deadline is September 29.

COMMISSIONER SERVICE RECOGNITION

The WFCA has a special recognition program honoring commissioners who have served their districts for 10, 15, 20 and 25 years. Commissioners who qualify are recognized at conference and awarded a special gift commemorating their years of dedication to the fire service. NOTE: This program is designed to recognize commissioner service *only*—time served in other capacities within the district does not apply to this award.

BOARD MEMBER ELECTIONS

Elections will be held on Friday, October 24, from 10:30 to 11 a.m., for the officers and even-numbered regional director positions. If you are interested in serving on the Board, please submit your name to the WFCA Nominating Committee, P.O. Box 134, Olympia, WA 98507, fax 360.664.0415, or email your nomination to wfca@wfca.wa.gov by August 1. For more information about Board responsibilities and qualifications, please see WFCA Bylaws which are posted on the WFCA website (www.wfca.wa.gov, select the About WFCA tab and select Constitution & Bylaws in the drop-down menu) or you may contact the association office at 1.800.491.9322 for a copy.

MEMORIAL SERVICE

A memorial service will be held at conference for commissioners, secretaries and chiefs who have passed away during the year. If you know of someone who has passed on, please contact the WFCA office. You will be mailed a form requesting information about the deceased so that they may be properly honored at conference. (You may also download the form at www.wfca.wa.gov; select WFCA Programs in the drop-down menu under the Education & Training tab, and scroll down to the Annual Conference General Information section.)

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Central Pierce Fire Receives New Rating

Submitted by Chief Jack Andren

Central Pierce Fire & Rescue is pleased to announce that effective July 1, the Washington Survey and Rating Bureau has re-rated the district's fire protection classification from Class 4 to Class 3.

The Board of Commissioners, administrative staff and members of Central Pierce have worked very hard to achieve this goal. The district's greatest gains were in fire department operations and water supply. In its last rating in 2002 the district had a total of 1863 deficiency points, improving to 1479 deficiency points.

Fire Department: Improved by 190 points (staffing and condition of equipment).

Water Supply: Improved by 166 points (reflected in the reduced percentage of area without hydrants and the increased number of hydrants in residential areas).

Fire Safety Control: Improved by 35 points that came from an improvement in fire inspections.

Fire Communications: Lost 7 points, although there was a 16 point improvement in Fire Alarm Communication Equipment; lost 20 points in the number of Fire Alarm Operators.

Commissioners: Rich Coleman, Bob Willis, Larry Nelson, Bill Eckroth, Ron Morehouse. Secretary/Chief Financial Officer: Vicky Carlsen.



FOR SALE by Douglas/Okanogan 15: District is accepting bids to sell surplus vehicles including...

One 1964 Jeep CJ5

One 1981 Ford 4x4 Utility Truck

One 1988 Ford Econo Van

One 1956 International fire truck

Vehicles can be seen at district's ambulance station, 412 Indian Ave., Brewster, WA. Min. bid: \$100 for each. Award given to highest bidder. Sold "as is, where is" and has no warranty expressed or implied. Contact Bill Vallance, Administrator, at 509.689.0216 for more information. Sealed bids will be accepted until Monday, June 23, 2008 at 5 p.m. You can send bid quote to: Douglas/Okanogan County Fire District 15, c/o Surplus, P. O. Box 490, Brewster, WA 98812. Bids will be open at 7 p.m. and awarded at our special commissioner meeting on Monday, June 23, 2008 at the ambulance station, 412 Indian Ave., Brewster. Successful bidder may accept ownership of vehicle after paid in full, unless otherwise agreement has been made with board of commissioners of the district.

POSITION ANNOUNCEMENT by Port of Seattle, Airport Rescue & Fire Dept): Fire Chief. Min \$108,610-Midpoint \$135,762, w/exc benefits. SeaTac International Airport is located in SeaTac, Washington. The Port of Seattle was created in 1911 as a public enterprise with unique authority and is divided into four operating divisions: Aviation, Corporate, Economic, and Seaport. The Aviation Division operates Seattle-Tacoma International Airport which is the 15th busiest passenger airport in the US and moves more than 375,000 metric tons of air cargo annually.

The Airport Rescue & Fire Dept has an annual budget of \$10,367,844, more than 72 FTEs, and responds to more than 4,000 calls per year. The dept protects a Category X Airport, providing suppression for Index E Aircraft, and provides structural fire response, emergency medical service, hazardous materials response, technical rescue, fire code inspections, sprinkler, fire alarms and building plan review, fire cause investigation, fire prevention, and safety education programs. The dept also responds to aircraft incidents and accidents within a 5 mile radius of the airport, and structural fires on and off airport property. It delivers emergency medical services on airport property, as

well as off-field, and has a highly trained, well-equipped Hazardous Materials Response Team. The dept provides primary aircraft, structural, EMS, Haz-Mat, and rescue services within the geographical boundaries of SeaTac Airport, as well as a portion of the surrounding residential and commercial properties based on property boundaries and mutual aid agreements.

Reporting to the Managing Director of the Aviation Division, the Fire Chief is one of the key members of the Senior Aviation Management (SAM) Team. The Chief is responsible for the management and administration of all fire and EMS services and resources that serve the Airport and will ensure that the Airport Rescue & Fire Department is consistently at the leading edge in fire safety and preparedness. Duties include: directs budget prep, implementation, and evaluation; develops management's labor strategy, negotiates labor contracts, manages labor agreements, facilitates the grievance process; responds to all major emergencies and directs dept operations; directs and facilitates disciplinary procedures, performance measurement, employee recognition, and staff development; and serves as the key link to state, federal, and national emergency preparedness and ARFF organizations.

Qualified candidates will possess 15 yrs of FF experience, 5 yrs or more in a command staff leadership role, 5 yrs experience in emergency command and control, and experience in fire code enforcement. Must have a valid WDL (or the ability to obtain w/I 45 days), and certification in IS 100, 200, 300, 400, 700 and 800 or the ability to successfully complete w/i first 6 months of employment.

The Port of Seattle is an EOE committed to a diverse workforce. Position requires a 10-year FAA-mandated employment history check, a TSA background check, and a criminal history background check with the FBI. All qualified applicants are encouraged to apply by June 22, 2008 (first review, open until filled). To apply, send letter of interest, resume, completed application & answers to the supplemental questions via email to humanresources@prothman.com or mail to: Prothman, 3633 136th Pl SE, Suite 206, Bellevue, WA 98006; ph: 206.368.0050; fax: 206.368.0060. Complete position profile, supplemental questions & application form available at www.prothman.com.

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tionship under the FLSA and MWA include the willing provision of services without promise, expectation or receipt of compensation. Section 553.101 provides in part as follows:

- (a) An individual who performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered, is considered to be a volunteer during such hours....
- (b) Congress did not intend to discourage or impede volunteer activities undertaken for civic, charitable, or humanitarian purposes, but expressed its wish to prevent any manipulation or abuse of minimum wage or overtime requirements through coercion or undue pressure upon individuals to "volunteer" their services.
- (c) Individuals shall be considered volunteers only where their services are offered freely and without pressure or coercion, direct or implied, from an employer.
- (d) An individual shall not be considered a volunteer if the individual is otherwise employed by the same public agency to perform the same type of services as those for which the individual proposes to volunteer. (emphasis added)

Payments to Volunteers. Under sections 553.104 and 553.106 of the regulations, individuals who voluntarily agree to perform fire protection activities on a parttime basis as a public service are not considered to be employees of the fire department even though the fire department may provide benefits including courses of training paid for by the fire department; reimbursement for approximate out-ofpocket expenses incurred incidental to providing the service, i.e., uniforms, replacement of clothing damaged while responding to a call; the fire department's premiums for the Volunteer Fire Fighters' Relief and Pension System; and insurance benefits.

In section 553.106 of the regulations, the Department of Labor has provided authorization for these limited payments to volunteers. The section provides substantially as follows:

"Volunteers may be paid expenses, reasonable benefits, a nominal fee, or any combination thereof, for their service without losing their status as volunteers.

Individuals do not lose their volunteer status if they receive a nominal fee from a public agency. A nominal fee is not a substitute for compensation and must not be tied to productivity. However, this does not preclude the payment of a nominal amount on a 'per call' or similar basis to volunteer firefighters. The following factors will be among those examined in determining whether a given amount is nominal: The distance traveled and the time and effort expended by the volunteer; whether the volunteer has agreed to be available around-the-clock or only during certain specified time periods; and whether the volunteer provides services as needed or throughout the year. An individual who volunteers to provide periodic services on a year-round basis may receive a nominal monthly or annual stipend or fee without losing volunteer status.

Whether the furnishing of expenses, benefits, or fees would result in individuals' losing their status as volunteers under the FLSA can only be determined by examining the total amount of payments made (expenses, benefits, fees) in the context of the economic realities of the particular situation."

This section has resulted in several acceptable methods of making limited payments to volunteers. The following sections discusses each of the approaches used by fire departments.

Expense Reimbursement System. A fire department may attempt to reimburse the actual expenses incurred by volunteers. Under an accountable plan, each volunteer would be required to account for every expense incurred while volunteering for a fire department. It would appear that if a fire department intends to reimburse volunteers on the basis of reimbursement of expenses that the fire department must be able to prove that each volunteer has incurred expenses for each call, drill or other unit of service equal to or in excess of the established rate. This probably would result in a situation where a fire department could not pay its volunteers on an equal basis but would have to establish a payment schedule for each

volunteer based on an itemized expense list submitted by the volunteer. While an accountable plan does not generate reportable income for a volunteer the approach is not widely used because of the challenges of accounting for all expenses. The current IRS regulations establishing the rules for accountable plans can be found in IRS publication 463.

Nominal Sum per Unit of Service. Instead of requiring each volunteer to account for all expenses, many fire departments establish a nominal sum per unit of voluntary service and pay such sum for each drill, response or other events at which the volunteer provides service. The determination of what constitutes a nominal sum is up to the reasonable discretion of the board of commissioners.

In 2006, the Department of Labor established safe harbor guidelines by defining what would be considered nominal payment (see below). The regulations provide that where fire fighters receive more than a nominal amount or where payment is on a basis which does not reasonably approximate the expenses incurred by them, they are considered employees rather than volunteers and therefore must be paid in accordance with the requirements of the Fair Labor Standards Act including the minimum wage and overtime provisions. If the Fire department stays within the limits of guidelines discussed below the volunteers will retain their volunteer status.

Point or Unit System. Many fire departments currently compensate volunteer fire fighters under a point or unit system. Under the system, each volunteer earns points or units of credit for performing various functions for the fire department. Each year the fire department budgets a specific amount for compensation to volunteer fire fighters and annually or periodically the funds are distributed on the basis of the number of points or units that each fire fighter has accrued. With certain modifications, this system is workable under the FLSA. To avoid the minimum wage problem, the following factors should be considered:

1. The fire department should award only one point or unit per activity. Do not award points or units based upon the

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amount of time spent by any volunteer in performing services for the fire department.

- 2. Points or units could be awarded for each drill attended, each alarm responded to, each meeting attended, or for the performance of any activity that the fire department may require.
- 3. A maximum dollar limitation per point or unit must be established.
- 4. The fire department could, in addition, still reimburse volunteers for actual out of pocket expenses, such as items of clothing that the fire department requires the fire fighter to provide.

Nominal Fee Guidelines

In 2006, the Administrator of the Wage And Hour Division of the Employment Standards Administration issued a letter to the President of the International Association of Fire Chiefs that provides specific guidelines defining the concept of a nominal sum. A summary of the guidelines follows:

A fire department may pay its volunteers a sum not to exceed twenty percent of what it pays its paid fire fighters for similar services. If a fire department has no paid fire fighters, it may use the amount paid by nearby fire departments. Factors that may be considered in determining nominal compensation per unit of service include "distance traveled, time and effort expended, around-the-clock versus limited availability, throughout the year versus upon request".

Caution – A fire department still cannot pay a volunteer an hourly wage. The payment must be based on a "unit of voluntary service" such as a drill, response, etc., and should not be based on the time spent in performing the service.

The following hypotheticals were included by the Administrator as examples of acceptable nominal sum payments (provided that the total dollar amount paid was less than the 20% threshold):

- A volunteer is paid \$1,200 per year regardless of the number of shifts or amount of time spent responding to calls. On average the volunteer staffs a minimum of 24 shifts and/or spends a minimum of 60 hours responding to calls annually.
- A volunteer is paid \$100 per month regardless of the number of shifts or

- amount of time spent responding to calls. On average the volunteer staffs a minimum of 4 shifts and/or spends a minimum of 8 hours responding to calls monthly.
- A volunteer is paid \$100 per month so long as the volunteer staffs a minimum of 2 shifts and /or spends a minimum of 5 hours responding to calls during the month. Additional payments of \$25 are made for each additional shift over 4 during the month and/or for every 2.5 hours spent responding to calls exceeding 12 hours during the month.
- A volunteer is paid \$25 (or \$30 or \$40) for each four-hour block of time regardless of the actual amount of time below four hours spent at the station house or responding to calls.
- A volunteer is paid \$20 for each shift regardless of the length of the shift or the time spent responding to calls. On average, the volunteer works a 6 hour shift and/or spends 2 hours per sift responding to calls.
- A volunteer is paid \$25 if the volunteer staffs a shift of a least 8 hours and/or spends 2.5 hours responding to calls. An additional \$15 per shift is paid if the shift exceeds 8 hours or responds to calls over 5 hours during a single shift.

PART II - TAXATION OF VOLUNTEER COMPENSATION

Income Tax. Payments made for drills and responses, regardless of whether the fire department calls it a payment of a nominal sum per unit of voluntary service or an expense reimbursement under a non-accountable plan, must be reported on form W-2 as income. Effective July 1, 1990, the Internal Revenue Service adopted regulations relating to the tax status of expense reimbursements. Basically, the regulations provide that if reimbursement of itemized expenses is paid under an "accountable plan" there are no tax consequences to the employee. Expense reimbursements paid under a nonaccountable plan are treated as income. A fire department's reimbursement to its volunteer fire fighters is not normally paid under an "accountable plan" since the volunteers do not itemize the actual out-of-pocket expenses they incur in providing service to the fire department.

The regulations further provide that if the reimbursement is paid under a "nonaccountable plan", such as that used by most fire departments, the amount is treated as income paid to the volunteer employee. As stated above, the reimbursement must be reported as taxable income on form W-2. The regulations provide that the employee (volunteer) may claim an offsetting business expense deduction provided the expenses actually incurred by the volunteer are classified as deductible business expenses by IRS and provided that the volunteer has sufficient records to prove the expenses claimed. The restrictions and limitations on the deductibility of employee incurred expenses will apply in all situations. The fire department must require that each volunteer who receives such payments complete a form W-4 for the fire department, upon commencing volunteer status.

If firefighters are paid once a year, the annual pay period on the withholding table contained in publication 15 (circular E, Rev. January 2008) is applicable. Under that provision a single person who receives \$2,650 or less during the year would not be subject to federal income tax withholding by the fire department and a married person who receives \$8,000 or less also would not be subject to withholding. The actual amount of reimbursement received by the firefighter, however, must be reported on a W-2 and included on the individual's federal income tax return.

Effective for 2008, 2009 and 2010, IRS Code Section 139B excludes up to \$30.00 per month of qualified payments to a volunteer from income tax. Accordingly for a volunteer serving 12 months a maximum \$360.00 of qualified payments would not be included in box 1 of the W-2 form.

FICA. IRC section 3121(b)(7)(F)(iii) exempts from FICA compensation paid to employees serving on a temporary basis in case of fire, storm, earthquake, flood or other similar emergency. There is a question whether this exemption covers compensation paid to volunteers for drills and responses or only for emergency responses. There is a 1992 written directive

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from OASI that concludes that all drills and responses are exempt. The Seattle IRS office, however, has rejected this determination and claims that regularly serving volunteers do not fall within this exemption and therefore all volunteer firefighter reimbursements are subject to FICA.

The other issue under FICA is whether volunteers meet the definition of employee under IRC 3121 The Federal, State and Local Government "FSLG" division of the IRS takes the position that volunteers are employees and therefore all volunteer payments are subject to FICA. I note that this position is an interpretation of the statutory language and, to date, there are no IRS regulations or judicial decisions directly supporting the FSLG position. If the volunteer is a member of a qualified retirement system of the fire department the Social Security tax portion would not be applicable. However, the Volunteer Fire Fighters' Pension System in Washington State is not considered a qualified retirement system.

The IRS is the only governmental agency that attempts to treat payments to volunteers in a manner similar to the payment of wages. Under the FLSA, FUTA, the State Unemployment Tax system, and under Washington court decisions, volunteers are not considered to be employees. Given the ambiguity in the IRS code provisions, it is our opinion that volunteer payments, which are based on a nonaccountable expense reimbursement concept, should remain exempt from FICA. Because of the IRS's current position, however, unless a Fire department is willing to challenge the IRS or risk future interest and penalties if the IRS position is upheld, any decision not to pay FICA taxes on volunteer payments is not currently recommended.

Finally, it is important to note that IRC section 139B, discussed above, which exempts up to \$360.00 of qualified payments to volunteers from income tax did not modify Section 3121 of the IRS code and does not therefore exempt the \$360.00 from FICA. As a result, a volunteer receiving \$360.00 or less will still be subject to FICA payments. The IRS has yet to issue any regulations guiding fire departments on the proper method of reporting the excluded income.

Federal Unemployment Tax Act (FUTA). Compensation paid to volunteers is not covered.

Industrial Insurance (Workers' Compensation). Compensation paid to volunteer fire fighters is not covered unless the fire department elects coverage.

Volunteer Firefighters Relief System. All volunteers must be enrolled in the Volunteer firefighters relief system through the Board for volunteer firefighters.

Volunteer Firefighters Pension Systems. The volunteer pension system must be made available to all volunteer fire fighters who wish to participate.

State Unemployment Tax. Although not specifically defined by statute, since payments made to volunteers are not "wages," volunteers do not meet the definition of employment and are neither eligible for unemployment benefits nor is the fire department required to report or pay unemployment taxes for volunteers. Most fire departments elect to make payments in lieu of contributions so would not report any employee. If you have not elected to make payments in lieu of contributions, it is my opinion that volunteer payments would, nonetheless also be exempt.

The above article is a summary of a number of complex laws and regulations and is not intended as legal advice. Fire departments attempting to address these issues should consult with the department's legal counsel.

¹ In March 2008, the State Auditor adopted the position of the FSLG division and now recommends that volunteer payments be subjected to social security and Medicare. See Part 3, Chapter 8, Section G of the BARS manual effective 3/15/08. However, as of the date of this article the Auditor may be considering withdrawing this provision from the BARS manual.

Next WFCA Board Meeting

Friday, July 11, 2008 12:00 p.m. WFCA Conference Room Olympia

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ment, remodeling its other four fire stations. His praise of working with present and former fire chiefs and commissioners, as well as all volunteers, is what has made Walla Walla 4 a great district of which Millie is very proud.

His Walla Walla 4 colleagues honored Millie with a reception recognizing his combined 50 years of fire service to the city, county and state.

Millie is Past President of the City of Walla Walla Professional Firefighters Local 404 (serving eight years) and Past President of Southeastern Washington Fire Commissioners Association (serving two years). He is very active and dedicated to community events and organizations, in addition to the fire service.

He is Past President of the Italian Heritage Association, St. Francis Church Parish Council, and is incoming Grand Knight of the local Knights of Columbus organization.

Well known for his skills as a gifted craftsman, Millie built or remodeled many homes with his brother, who began Buttice Construction (Millie worked both jobs for 31 years).

And those who have witnessed his culinary skills enjoy his famous spaghetti and meatball dinners and other Italian specialties. He restored a travel trailer into a portable Italian-Meatball/Sausage Sandwich trailer that the Italian Heritage Association uses for fundraisers at many area events. Millie is well known for his patience and concern for people.

Millie has been married to Carmy, who is active in the WFCA Auxiliary and Silent Auction, for 17 years; her late husband was Millie's good friend and fellow firefighter. Between them they have eight sons, three daughters, 23 grandchildren and four great granddaughters. Their dedication to their family, friends, community, cultural heritage and church keeps them going strong. They enjoy opening their home to family, friends and associates. To quote Millie, "The coffee pot is always on!"

Millie has been a caregiver during Carmy's recovery from several operations; she has five months' recovery to date after serious back fusion surgery. It's only because of his dedication to her, she says, that she recovers so well.

Millie and Carmy plan to keep involved in the WFCA, Carmy vowing to work "many more Silent Auctions".

WASHINGTON FIRE COMMISSIONERS ASSOCIATION

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